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June 8, 2005

BY E-FILING

The Honorable Joseph J. Farnan, Jr.
United States District Court
844 King Street
Wilmington, Delaware 19801

Re: *Nokia Corporation and Nokia, Inc. v. Interdigital
Communications Corporation and Interdigital Technology
Corporation*; C.A. No. 05-16-JJF

Dear Judge Farnan:

We write on behalf of Plaintiffs Nokia Corporation and Nokia Inc. (collectively, "Nokia") both to respond to InterDigital's June 3, 2005 letter to the Court enclosing the June 1, 2005 *MedImmune, Inc. v. Centocor, Inc.* decision from the Federal Circuit, and to submit additional evidence that has come to light in recent days supporting Plaintiffs' Opposition to Defendants' Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(B)(1), 12(B)(6), and 12(H)(3) ("Opposition to Defendants' Motion to Dismiss").

First, InterDigital states in its letter that "*MedImmune* directly supports InterDigital's motion to dismiss" because it "conclusively establishes the absence of an actual controversy when the declaratory judgment plaintiff is a licensee of the patents at issue" *MedImmune* is consistent with the Federal Circuit's decision in *Gen-Probe*. It does not, however, "conclusively establish" the absence of an actual controversy when the declaratory judgment plaintiff is a licensee. Indeed, like the plaintiff in *Gen-Probe*, the plaintiff in *MedImmune* could not have been in a reasonable apprehension of suit because it was an "exclusive licensee of the patent, with the right to sublicense the patent to others." Slip Op. p. 2. In other words, like the license in *Gen-Probe*, the license at issue in *MedImmune* completely subsumed the patentee's threats of litigation such that it "'obliterated any reasonable apprehension of a lawsuit'" against the declaratory judgment plaintiff. Slip Op. p. 6 (quoting *Gen-Probe Inc. v. Vysis, Inc.*, 359 F.3d 1376, 1381 (Fed. Cir. 2004)). Moreover, neither *MedImmune* nor *Gen-Probe* is inconsistent with

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the Federal Circuit's holding in *C.R. Bard, Inc. v. Schwartz*, 716 F.2d 874 (Fed. Cir. 1983), as InterDigital suggests in its letter.

As Nokia pointed out in its Opposition to Defendants' Motion to Dismiss, Nokia's license is nonexclusive, with no right to sublicense, and expires well before the expiration of the patents Nokia is challenging in this suit. Accordingly, Defendants cannot seriously argue that Nokia's limited license completely subsumes the repeated threats of litigation InterDigital has made against Nokia. The two-pronged actual controversy test set forth by the Federal Circuit is a fact-specific inquiry that depends on the totality of the circumstances. *Gen-Probe* at 1379. Here, the totality of the circumstances demonstrates that Nokia was (and is) in a reasonable apprehension of suit from InterDigital.

InterDigital continues to make threats against Nokia concerning patent litigation. As recently as June 2, 2005, the Chairman of InterDigital's Board of Directors, Harry Campagna, stated to InterDigital investors that InterDigital would not hesitate to use its "war chest" against Nokia with respect to its 3G patents if Nokia does not accede to InterDigital's 3G patent licensing demands. According to one investor who was present, Mr. Campagna stated that any company that takes the position that it isn't going to take a 3G license from InterDigital "will not succede[sic]- ain't gonna happen- and we got the war chest to do it- [which] includes [Nokia] for 3g if they are unreasonable." We attach for the Court's convenience a copy of the investor's publicly-posted notes of Mr. Campagna's statements.

Respectfully,

/s/ Jack B. Blumenfeld

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JBB/bav
Attachment

cc: Peter T. Dalleo, Clerk (By Hand; w/attachment)
Richard L. Horwitz, Esquire (By Hand; w/attachment)
Keith E. Broyles, Esquire (By Fax; w/attachment)
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Date: 6/5/2005 2:24:37 PM

In reply to: None

Post # 111722 of 112205

ASM - KOP-V IMPT- READ-

After the meeting, Harry C. was holding court with a number of us shareholders. I'll list my questions first. I don't remember questions from some of the other shareholders but I do remember some of the statements H made. I have no notes on these.

Me: Is the poison pill for \$240-245 or what ever it is still in effect and how effective can we expect it to be if we have to use it?

HC: Yes, it is still in effect and it will be effective if we have to use it. I only know of one company that was successful in a hostile takeover against a poison pill. It will give us a time process that will allow the board to maximize shareholder value. Nobody is going to steal this company from us at a bargain.

Me: What are the chances that Nok will Appeal the Arb decision.

HC: Slim to none. Al Bianchi(?) is the arbitrator IDCC chose for the panel in New York. He is know as the man who wrote THE BOOK on how to reach an arb decision that won't get appealed. An appeal can only be made on the basis of fraud- I guarantee you there is no fraud in this case.

Me: Do we have any leverage on Nok for 3g?

HC: Yes, after the arb decision, there will be penalties/interest.(my comment: didn't have time to follow up on this- not sure what it means- perhaps others can comment.)

On Eric- HC- they hate my guts. They thought they were going to drive IDCC & me into

the ground over that 10 year period. I was the one that spearheaded that effort- and significant monies are coming into our coffers as a result. You heard us say all day today that Idcc wants to license AT REASONABLE RATES. \$0 for patent royalties is not reasonable. Any company who takes that position will not succede- ain't gonna happen- and we got the war chest to do it- includes nok for 3g if they are unreasonable.

On the BOD- HC- I've got one of the best boards anyone could ever ask for. They are easy to work with and are always so supportive.

On Mgt change- HC- The BOD for some time back had identified B.M. as the person who who should be leading IDCC. It was personally very difficult for me to see Howard and Rip go. They contributed a lot to laying a solid foundation at IDCC. Some others were a lot easier to let go.(he didn't say it but guy Hicks came to my mind)

On profits- HC- we need to work hard on getting our expenses down and do the things Bill M. said earlier today.

On ISS- HC- the ISS is privately funded and is not a regulatory body. Idcc falls under NASDAQ which is a regulatory body and we are in compliance.

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